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METIS SETTLEMENTS LEGISLATION

A DISCUSSION PAPER

March, 1987

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Introduction

This Discussion Paper has been prepared by tne Metis Settlements Branch of the Department of Municipal Affairs.

The Paper attempts to incorporate, in one comprehensive document, the years of discussion about future legislation respecting Alberta's Metis settlements.

This Paper is intended as a focus for discussion and as a possible basis for further negotiations. The Paper is not intended to state the final position of either tne Government of Alberta or the Federation of Metis Settlements on any issue. Further discussion and negotiation may well result in new or revised proposals that will then be the subject of a legislative proposal for ultimate consideration by the Legislative Assembly of Alberta.

METIS SETTLEMENTS LEGISLATION

A DISCUSSION PAPER

EXECUTIVE SUMMARY

This Discussion Paper is composed of concepts respecting

(a) a grant of settlement land, which gives title in settlement land to Okimawiwin on behalf of the Metis people of Alberta; and

(b) a discussion of more general Metis Settlements legislation which deals with the governance of the settlements, elections, membership, land allocation, planning, financial and related matters.

A. GRANT OF SETTLEMENT LAND

2 The nature of the land grant, composed of some 1.28 million acres of land, is under on-going negotiation. The grant will conform to the June 3, 1985 Resolution of the Legislative Assembly (Resolution 18).

Following transfer of the land a proposed resolution will be tabled calling for an amendment to the Alberta Act in order to confirm the grant of existing settlement land within the Constitution of Canada.

The commitment of the Government was recently confirmed by the Honourable Ken Rostad, Solicitor General and Minister Responsible for Housing and Native Services, in a Statement in the Legislative Assembly on March 20, 1987.

B. METIS SETTLEMENTS LEGISLATION

The legislation proposed would be a unique blend of Metis tradition and institutions with Canadian common law tradition and institutions. The melding of these sometimes diverse interests has been and continues to be the legislative challenge. Making the scheme work will be an ongoing challenge to all the participants in the scheme.

The conceptual framework of the legislation is divided into 12 Parts which can be summarised as follows:

PART 1 - Interpretation

This would be the usual interpretation section. "Metis" is defined as suggested by the MacEwan Committee and the Federation of Metis Settlements proposal "By Means of Conferences . . ."

PART 2 - Settlements

This Part would create the settlements as legal entities. The proposal provides for a flexible system of agreements for the next 10 years which will provide a means by which a settlement can gain control over its own affairs at a pace most suitable to it. By December 31, 1998 the Minister will cease to approve contracts and agreements of all settlement councils.

Settlements could only be dissolved by an Act of the Legislature.

PART 3 - Settlement Government

This Part would provide for the establishment of settlement councils and democratic staggered elections.. Disqualification of councillor provisions and general council proceedings are also included.

Elders Committees must be established unless a council declares that no such committee is required.

PART 4 - Metis Settlements Okimawiwin

This unique Metis institution is given statutory recognition and will be a focal point for meetings of Metis leaders and the way in which they will chart their future as the collective voice of the settlements.

Most of the suggestions of the Federation in "By Means of Conferences . . ." concerning the structure of Okimawiwin will be incorporated in this Part.

PART 5 - Metis Dispute Resolution Tribunal

The Tribunal, composed of Metis on and off the settlements, and a chairman appointed by the Minister, would have extensive authority to resolve disputes over land, membership in a settlement, and many other matters.

The Tribunal is designed to become a major player in the development of the settlements. Although the Tribunal has significant legal authority, it is anticipated that the Tribunal will create innovative dispute resolution mechanisms and will function in a "non legalistic" manner. An opportunity exists to forge a distinctive dispute resolution scheme on the settlements based on basic Metis traditions of fairness.

PART 6 - By-Law Making Authority

This Part would provide for the devolution of by-law making authority to settlement councils as and when a settlement is ready and willing to undertake that responsibility.

Each council will be able to enter into an agreement with the Minister to assume any or all of the by-law making authority described. By-laws must be consistent with Okimawiwin Policy and Provincial law.

PART 7 - Membership

Detailed proposals are included in this Part dealing with the membership of persons in a settlement, together with an appeal procedure and the circumstances under which a person might lose membership.

PART 8 - Planning

The Planning Act will, for the most part, not apply to the settlements because of the distinctive land holding regime applying to settlement land. In its place a "mini-planning act" is proposed which deals with land use planning and subdivision approvals on settlement land.

PART 9 - Land Allocation in Settlement Areas

This Part proposes a method of allocation of land to settlement members and provides for the nature of the land holding of the member. Appeals are provided for and there are restrictions on the amount of land one member may hold under a "certificate of occupancy" (which gives the member exclusive right to occupy land that is the subject of the certificate).

The land holding provisions are distinctly different from off settlement land holding and reflect the historical development of the land holding regime on the settlements for the past 45 years.

PART 10 - Financial Matters

The funding of settlements will be the subject of an agreement between the Minister and the settlements and will include provisions for audit and inspection and expenditure controls.

This Part proposes the establishment of a statutory trust into which specified monies can be paid for the benefit of the settlements as a whole.

PART 11 - General

This Part deals with various miscellaneous provisions that might be included in the legislation.

PART 12 - Transitional Provisions

Transitional provisions would be suggested to smooth the way from the existing procedure to the new procedure.

SCHEDULE 1 - By-Laws

This Schedule contains a description of the by-law making power that could be devolved to a council in accordance with an agreement with the Minister.

Note: No consequential amendments to other legislation are proposed in this Paper pending discussions with the Federation. Extensive consequential amendments to other legislation will probably be needed to properly implement the concept proposed.

METIS SETTLEMENTS LEGISLATION

It is proposed that the new legislation will repeal and replace the existing Metis Betterment Act.

The proposed 12 Parts of the legislative scheme can be described as follows:

PART 1 - Interpretation

The usual definitions will be incorporated, including definitions of "Okimawiwin" as the Metis Settlements Okimawiwin established under the legislation and "Metis" as "an individual of aboriginal ancestry who identifies with Metis history and culture".

Rules describing when a person is considered to be a "resident" will be proposed, for example:

(a) the residence of an individual is the true, fixed, permanent home or lodging place to which, when that individual is absent, he or she has the intention of returning;

(b) an individual does not lose a residence by leaving his or her home for a temporary purpose;

(c) if an individual leaves the settlement area with the intention of making a residence elsewhere, that individual loses his or her residence in the settlement area;

(d) the place where an individual's family resides shall be deemed to be his or her place of residence, unless he or she takes up or continues a home in some other place with the intention of remaining there;

(e) the residence of a single individual is the place where that person occupies a room as a regular lodger, or to which he or she habitually returns not having any other permanent lodging place;

(f) no individual shall be deemed to have residence in more than one settlement area, or in a settlement area and elsewhere,

but if an individual maintains a residence in more than one settlement area or in a settlement area and elsewnere, he or she shall be required to elect one residence for the purpose of the legislation.

These rules will be important in determining whether a person is or is not a resident of the settlement.

PART 2 - Settlements

Each of the existing 8 settlements will be established as a corporation. Ultimately each settlement will have the powers necessary to run the settlement. It is proposed that a settlement not:

(a) engage in commercial activities without a written agreement with the Minister, which agreement may prescribe the terms and conditions under which the activity may be conducted;

(b) lend money;

(c) guarantee the repayment of a loan made by a lender to someone other than the settlement;

(d) guarantee the payment of interest on a loan to a lender by someone other than the settlement.

Contracts and agreements entered into by a settlement would initially be subject to Ministerial approval, and sufficient funding.

Over a period of 10 years or less, the Minister will become less involved in contract approvals. The phasing out of Ministerial involvement will be negotiated on a settlement by settlement basis, based on the needs and concerns of individual settlements.

The existence of the settlements will be guaranteed by a proposed provision whereby a settlement may only be dissolved by an Act of the Legislature.

PART 3 - Settlement Government

Each settlement will have an elected settlement council composed of 5 councillors. A chairman will be elected by the councillors from among themselves.

A chairman will hold office for one year unless he or she is earlier voted out of office by the other councillors.

Except where special arrangements have to be made to accommodate unique Metis proposals, the Local Authorities Election Act will apply to elections of councillors.

Requirements for disclosure of contracts held by candidates for election will be proposed. Certain candidates will be ineligible at an election (e.g., judges, members of elders committees, officers of Executive Council of Okimawiwin, auditors, individuals convicted of certain offences witnin 3 years of election day, etc.)

Councillors will be elected by a staggered system of elections, the longest term being for 3 years. Elections will be held annually to fill vacancies.

Councillors may be disqualified if they are convicted of specified offences, cease to be a member of the settlement, become employees of the settlement, come into debt to the settlement, cease to attend meetings, etc. Disputes will be referred to an Elders Committee, if any, but if they cannot be resolved, will be settled by the Court of Queen's Bench.

Proposals for insufficient councillors (the Minister may fill temporary vacancies); oaths of office and requirements for disclosures of conflict of interest by councillors will be made.

Proposals for a quorum and meetings, and procedures at them, generally follow the proposals of the Federation in "By Means of Conferences . . . . ."

By-laws and resolutions of a settlement must be consistent with the policies of Okimawiwin and Provincial law.

Documents of a settlement may be inspected by residents subject to protection for confidentiality.

Elders Committees are proposed to be established on each settlement unless a council, by by-law, states that no such committee is to be established.

Elders hold office for 5 year terms, but may be removed for specified reasons (e.g., ceasing to be a settlement member, conviction of certain offences, becomes an employee of the settlement, etc.).

The Elders Committee has responsibilities to review membership applications and may be given other functions by the settlement council.

PART 4 - Metis Settlements Okimawiwin

It is proposed that many of the Federation's recommendations be incorporated into the legislation to establish the Metis Settlements Okimawiwin as the collective voice of the settlements.

It is proposed that Okimawiwin be established as a corporation composed of all the councillors from all of the settlements. The councillors, together with an Executive Council, form the governing body of Okimawiwin.

Officers of Okimawiwin will be elected for 4 year terms, by the settlements.

The Executive Council of Okimawiwin will be composed of the chairmen of each settlement council, plus the officers of Okimawiwin.

Okimawiwin may establish policies by a vote of at least 70% of the settlement councils representing at least 70% of the adult members of all the settlements. This unique and innovative formula (the 70/70 formula) was first proposed by the MacEwan Committee report.

Having adopted a policy through Okimawiwin, settlement councils are then expected to comply with the policy.

Initially, Okimawiwin policies will be subject to approval by the Government, but the proposal is that increasing control over policy issues could be transformed to Okimawiwin as the need requires. If there is an appropriate agreement between the Minister and Okimawiwin in place, Okimawiwin might make policies on all or any of the following matters:

(a) the prohibition, or the regulation, control and development of non-renewable and renewable natural resources, in the settlement areas;

(b) the sale, lease or other disposition of non-renewable and renewable natural resources in the settlement areas;

(c) the prohibition or regulation of the terms and conditions under which persons who are not members of a settlement may become entitled to explore for or develop non-renewable or renewable natural resources in the settlement areas;

(d) providing for environmental protection in the course of exploration or development of non-renewable resources and renewable natural resources;

(e) governing the disposition of the benefits derived as a result of exploration of non-renewable resources and renewable natural resources and the distribution and disposition of those benefits;

(f) membership in settlements;

(g) hunting, fishing, trapping and gathering;

(h) notice and procedures for council meetings, general meetings, public and special meetings;

(i) such other matters as are considered to be for the benefit of the settlements and their members.

It is proposed that "natural resources" in the list above will not include mines and minerals.

Okimawiwin Policies must be consistent with Provincial law.

PART 5 - Metis Dispute Resolution Tribunal

It is proposed that there be a Metis Dispute Resolution Tribunal established, composed of representatives of both on and off settlement Metis, chaired by a person appointed by the Minister.

There may be a sufficient number of appointments made for the Tribunal to sit in panels.

The Tribunal will hear appeals principally on membership and land related issues but it is proposed that the Tribunal have a broad mandate to settle other kinds of dispute arising as a result of the legislation.

The Tribunal may act on its own initiative or on receipt of an appeal or request. It may appoint investigators or mediators to settle disputes or hold hearings on the matter. It may require documents or persons to attend a hearing to help settle a dispute.

The Tribunal is required to act with as little formality as possible and, where appropriate, must take into consideration certain matters when making a decision. In particular, the Tribunal:

(a) would be bound by the legislation, and, whenever possible, must conform with and comply with Okimawiwin Policy and by-laws enacted in accordance with the legislation;

(b) shall take into consideration and, whenever possible, make decisions that encourage the economic self-reliance of the Metis while preserving the cultural ties of the Metis to the land;

(c) where possible, maintain the traditional pursuits of the Metis and support their cultural heritage;

(d) shall support the concept of sharing resource revenue to avoid disparities between settlements;

(e) shall support the concept of allowing settlements to develop self-reliance and to develop at a pace that is appropriate and acceptable to the settlement concerned.

In certain circumstances, an appeal from a decision of the Tribunal could be made to the Court of Appeal.

PART 6 - By-Law Making Authority

When the legislation comes into force a settlement council may enter into an agreement with the Minister specifying what by-law making autnority the settlement council is to nave.

The proposals provide for a flexible approacn to providing by-law authority to councils following a capability assessment which will take into consideration whether:

(a) proper administrative and staffing structures and policies are in place;

(b) appropriate procedures and structures are in place for the receipt, expenditure, accounting and inspection of funds and records;

(c) the settlement council is properly prepared to administer the business and affairs of the settlement.

Where a settlement does not have authority to pass some or all by-laws, the Minister, in consultation witn tne council, may do so.

Provisions to ensure by-laws remain consistent with Provincial law and Okimawiwin policies are proposed.

It is proposed that by-laws be approved by a public meeting before they are given 3rd reading. Only members may vote on by-laws but other residents may attend and speak at the meeting.

Fines can be imposed for contravention of by-laws up to a maximum of $2500 or 6 months imprisonment. All fines would be paid into the general revenue of the settlement.

When making a by-law, a council may establish any system of permits, approvals, conditions or fees it considers appropriate.

The by-law making authority of a settlement council is confined to the settlement area.

It is proposed that, with the agreement of the Minister, a settlement council may accept any delegation of authority from the Federal Parliament.

Councils may undertake enforcement powers to ensure compliance with the legislation and by-laws, including power to employ by-law enforcement officers.

PART 7 - Membership

An Enrolment Register is proposed which will contain the name, date of birth and name of the settlement of which the person is a member.

There will be transitional provisions to enable the Minister and each council to review membership records maintained under the Metis Betterment Act. If there is a difference of opinion as to whether a member registered under the Metis Betterment Act is still eligible for membership under the new legislation the matter will be referred to the Tribunal for a decision. If a former member is no longer eligible to be a settlement member the Tribunal may order a lease to be granted to that person or compensation to be paid for improvements on the settlement.

Pending a review of membership records, the Enrolment Register of a settlement shall be deemed to be composed of

(a) the files of members of each settlement association maintained by the Metis Settlement Branch of the Department of the Municipal Affairs under the Metis Betterment Act, and

(b) such other records of members as were maintained under the Metis Betterment Act.

Information on the Enrolment Register is confidential and may only be made available to:

(a) the Minister and his authorized representatives;

(b) the Executive Council of Okimawiwin and its authorized representatives;

(c) the member, in respect of the information about the member;

(d) the settlement council and its authorized representatives with respect to members of the settlement;

(e) such other persons as may be specified.

It is proposed that the following persons would be entitled to apply for membership in a settlement, a person

(a) who is a Metis and at least 18 years old, and

(b) who has

(i) previously been a member of a settlement, or a settlement association under the Metis Betterment Act, for at least 6 months, or

(ii) resided in Alberta for at least 5 years immediately preceding the date of his or her application for membership.

It is proposed that an Indian registered under the Indian Act (Canada) or a person who is registered as an Inuit for the purposes of a land claims settlement would not be eligible to apply or to be registered as a member of a settlement.

An individual would not be entitled to be registered as a member of more than one settlement, but if the person is so registered, the person shall decide the settlement in which he or she is to remain as a member.

Every Metis child who resides with a member may be registered on the Enrolment Register as the child of a member of the settlement.

When a Metis child who resides with a member reaches 18 years of age that person retains a membership in the settlement until he becomes 19 years old unless, while he or she is 18, the person's

(a) membership is suspended or terminated, or

(b) application for membership is refused.

Membership applications from off settlement Metis must be accompanied by

(a) a statutory declaration by the applicant that

(i) the person is of aboriginal ancestry, describing the facts upon which the declaration is based;

(ii) the person identifies with Metis history and culture; and

(b) one or more of the following:

(i) genealogical records as evidence that the person is of aboriginal ancestry,

(ii) the statutory declaration of at least 2 Metis who are recognized as Metis elders, that the applicant is of aboriginal ancestry, or

(iii) such other evidence satisfactory to the settlement council that the applicant has aboriginal ancestry.

Membership applications must be considered by settlement councils within 90 days of receipt. Adequate notice of the date, time and place that the settlement council proposes to consider the application must be given to the applicant. The settlement council must give the applicant a reasonable opportunity of giving information to support the application, and a hearing if so requested.

A decision by the settlement council must be sent within 45 days of considering the application. The decision may approve, refuse or defer the application, pending further information or compliance with specified conditions. Reasons must be given if an application is deferred or refused.

If an application is deferred because of a lack of suitable living accomodation a waiting list of persons who have priority for membership may be established.

If a settlement council fails to consider or decide on an application the applicant may appeal to the Elders Committee who may make a decision.

Applications for membership need not be approved unless the settlement council is satisfied that the applicant:

(a) is an individual of aboriginal ancestry who identifies with Metis history and culture,

(b) has or will have a satisfactory place to live in the settlement area, and

(c) is committed to living in the settlement area and preserving a peaceful community.

No application for membership in a settlement is to be approved if the applicant

(a) is a member of another settlement;

(b) is in debt to the settlement or any otner settlement, unless

(i) satisfactory written arrangements have been made to pay the debt, and

(ii) the person is not behind in his payment, or

(c) is an Indian under the Indian Act (Canada) or an Inuit registered for the purposes of a land claims agreement.

Notification of membership approvals must be given to the member, the Minister and Okimawiwin. The Minister will record the appropriate membership information in the Enrolment Register.

Appeals following a deferral or refusal of membership may be made to the Elders Committee and, if necessary, tne Tribunal. The Tribunal may make any decision on a membersnip application that the settlement council may make.

A settlement council should have authority to suspend, limit or restrict any right or privilege of a member, but only after the member has had an opportunity to present his or her case. The settlement council would exercise this power by by-law.

An adult member will be deemed to have terminated his or her membership in the settlement when the member

(a) becomes registered as an Indian under the Indian Act (Canada); or

(b) becomes registered as an Inuit for the purpose of a land claims agreement.

A termination or suspension of membership may occur if:

(a) an adult member has ceased to reside on a settlement and has abandoned his or her membership;

(b) an adult member has not resided on a settlement for 12 consecutive months or more, unless

(i) the adult member is on a permitted leave of absence;

(ii) the adult member has permission from the council to be absent, or

(iii) there is other sufficient cause for the member to be absent from the settlement area.

A permitted leave of absence might include an absence because of:

(a) appointment or election to public office, requiring residence elsewhere;

(b) military service;

(c) education;

(d) employment;

(e) imprisonment;

(f) medical reasons;

but the individual must continue to maintain a residence in the settlement area.

An individual whose membership on a settlement is terminated loses any right to reside on or occupy settlement land, but may be entitled to some compensation for improvements to the land.

A right to appeal is provided to the Tribunal against a termination of membership. The Tribunal may order compensation to be paid for improvements to land if it upholds the termination order.

PART 8 - Planning

It is proposed that Okimawiwin adopt a Metis Settlements Planning Policy which would describe, in general terms, the present and potential future land use and development of settlement areas and, where required, regulate use and development of land and buildings.

The Minister, in consultation with Okimawiwin may establish temporary planning policies.

Settlement councils would be authorized to establish general plans and land use by-laws for their settlement, which must be consistent with Okimawiwin Policy. The land use by-law may include a system of development approvals (e.g., to properly plan and administer a hamlet area).

Some of the Planning Act provisions would apply to settlement land. Appeals on development permits would go to the Tribunal.

PART 9 - Land Allocation in Settlement Areas

Transitional proposals are that allotments issued under tne Metis Betterment Act will be deemed to be memorandum of allocation under the proposed legislation and expire in 5 years unless

(a) the settlement council extends the period, or

(b) a certificate of occupancy is issued to replace the memorandum.

Certificates of occupancy issued under the Metis Betterment Act will have the same recognition under the proposed legislation.

If a member of a settlement holds 2 or more memoranda of allocation

(a) the member shall elect which one he or she will retain as a memorandum of allocation, and

(b) the remaining memoranda becomes leases for a term of 5 years.

Title in a settlement area held by Okimawiwin may only be transferred to the Crown in rignt of Alberta if

(a) the settlement council concerned requests that the land be transferred by resolution;

(b) at least 2/3 of the voting members of the Executive Council of Okimawiwin vote in favour of the transfer;

(c) 70% or more of the settlement councils representing at least 70% of the adult members of the settlements vote in favour of the transfer; and

(d) at least 90% of the adult members of the settlement concerned vote in favour of the transfer.

It is proposed that Okimawiwin have no legal capacity to transfer the title of any land in a settlement area to other than the Crown in right of Alberta.

Regulations are proposed to establish a land registration regime applying to settlement land. It is proposed that all dealings with land in a settlement area be recorded in a special Metis Land Registry.

A scheme for the subdivision of settlement land through a system of approval of subdivisions is proposed. This scheme would primarily apply to the creation of new or enlarged hamlet areas or new residential areas.

The Minister would approve subdivisions but could delegate that authority.

It is proposed that either a settlement council or Okimawiwin apply to subdivide land. The Minister would not approve the subdivision unless:

(a) the land that is proposed to be subdivided is, in the opinion of the subdivision approving authority, suitable for the purpose for which the subdivision is intended;

(b) the proposed subdivision conforms to the provisions of any Okimawiwin Policy, general plan or land use by-law that affects the land proposed to be subdivided;

(c) the proposed subdivision complies with the legislation;

(d) the settlement council and the Executive Council of Okimawiwin both approve of the subdivision.

Where land is required for public roadways or utilities it is proposed that it or an appropriate interest in the land be provided to the Crown without compensation. Previously approved subdivisions that were not put to use could be cancelled.

Adult members of a settlement would be entitled to apply for a memorandum of allocation in respect of land that has been or is capable of being subdivided, is in an area suitable for the use proposed by the member, and is not larger than 160 acres.

It is proposed that an adult member not hold or apply for

(a) more than one memorandum of allocation;

(b) more than one certificate of occupancy;

(c) both a certificate of occupancy and a memorandum of allocation;

(d) a memorandum of allocation or a certificate of occupancy in respect of more than 160 acres of land; or

(e) a memorandum of allocation or a certificate of occupancy if the adult member is not committed to or capable of the productive use of the land.

Additional land could be held by a member under lease.

A memorandum of allocation gives the holder a right to exclusive occupancy of the land described in the memorandum.

A memorandum may be issued for not more than 5 years, but may be renewed by the council. Once a memorandum expires, all rights and interest of the holder of the memorandum cease.

The holder of a memorandum is not entitled to lease, assign or in any other manner deal with his interest, except return it to the settlement council.

When a memorandum holder complies with conditions respecting the improvement, cultivation or breaking of land, he or she may apply for a certificate of occupancy with respect to the land. A certificate of occupancy grants the right to exclusive possession and, subject to the approval of the settlement council, the right to licence or grant leases to another member for not more than 5 years.

A memorandum of occupation and certificate of occupancy are revoked if the holder ceases to be a member of the settlement.

A memorandum and a certificate may be revoked by a settlement council for

(a) a persistent failure to comply with the by-laws or to pay any fees, dues, charges or levies attributable to the land or a use on it;

(b) an absence from the settlement area for 1 year or more during which time the land which is the subject of the memorandum or certificate has not been properly used or maintained.

An appeal may be made to the Tribunal from a decision of a settlement council to revoke a memorandum or certificate.

It is proposed that on the death of a member the land the subject of a memorandum of allocation will revert to Okimawiwin. In the event of the death of the holder of a certificate of occupancy it is proposed that the certificate:

(a) devolve upon the spouse and child or children of the deceased who are residing in the settlement area, if more than one, as joint tenants;

(b) if there is no spouse, devolve upon the child or children who are residing in the settlement area, if more than one, as joint tenants;

(c) if there is no spouse or children, or no one who is eligible under clause (a) or (b), the certificate of occupancy is extinguished and the land reverts to Okimawiwin.

It is proposed that anyone not a member of a settlement have no right to reside in the settlement area unless the person:

(a) is the spouse, child, parent, friend or guest of a member;

(b) is permitted to reside in a settlement area in accordance with a by-law or Okimawiwin Policy;

(c) is a teacher, health care worker or an employee of the settlement council;

(d) is lawfully residing on land not owned by Okimawiwin;

(e) such other persons as may be specified.

PART 10 - Financial Matters

Settlement funding will be the subject of agreements with the Minister. An agreement would probably include the following provisions:

(a) the financial year of the settlement;

(b) the preparation and approval of budgets for operating the settlement and for capital projects;

(c) the grants to which a settlement may be entitled under any other Act and the conditions applicable to the grant;

(d) the audit and inspection of records;

(e) reporting of financial activity;

(f) any administrative or accounting procedures that may be required;

(g) the borrowing that a settlement may be authorized to undertake and debt servicing;

(h) any other matter with respect to the funding of the settlements;

(i) any conditions, restrictions or limitations respecting any or all of the matters referred to.

It is proposed that legislation provide for a trust agreement to be entered into which could:

(a) establish a trust fund;

(b) specify the monies that are to be paid into the fund or a specified part of it;

(c) provide for the division of the fund into such parts as are agreed, with different rules respecting payments into and from each part of the fund;

(d) deal with payments out of the fund;

(e) appoint one or more trustees or provide for the manner by which they are to be appointed;

(f) govern the accounting and administrative records, inspections and audits of the fund and generally its use;

(g) deal with any other matter respecting the administration, operation or management of the fund or the trust agreement as may be required.

PART 11 - General Provisions

Various provisions of a general nature would likely be required. These may include provisions to delegate authority, giving notices extending time limits, the non-application of other legislation, where appropriate, regulation making powers and other miscellaneous provisions.

PART 12 - Transitional Provisions

A number of transitional provisions to link the Metis Betterment Act with the new legislation will likely be required.

The Metis Betterment Act would be repealed when the new legislation is Proclaimed in force.

In accordance with Resolution 18, the new legislation would be without prejudice to the natural resources litigation.

Schedule 1

1. This list is a description of the by-law making power that, with the agreement of the Minister, may be provided to settlement councils

(a) public order and safety;

(b) fire protection;

(c) nuisance and pest control;

(d) animal control;

(e) airports, subject to Federal legislation;

(f) posters and advertising;

(g) refuse disposal;

(h) public health;

(i) parks and recreation;

(j) control of businesses;

(k) installation of water and sewer connections;

(l) service charges and licence fees;

(m) such other matters as may be agreed upon.

2. If an Okimawiwin Policy is in effect the following is a proposed list of possible additional by-law making powers:

(a) hunting, fishing, trapping and gathering;

(b) timber and similar resources;

(c) matters in respect of which an Okimawiwin Policy provides for by-laws to be made.

3. Additional by-law making authority may be provided through the amendment to other legislation yet to be discussed (e.g., in health, traffic, livestock disease areas, to name a few examples).

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